

Message Text

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EXDIS

E.O.11652: XGDS-1
TAGS: UN, AORG
SUBJECT: UN ADMINISTRATION: UN LEGAL ADVISER'S VIEWS
ON TAXATION OF LUMP SUM SETTLEMENTS

1. SUMMARY. UN LEGAL COUNSEL SUY REQUESTS THAT HE BE FORMALLY APPRISED OF WHAT HE UNDERSTANDS TO BE THE DEPARTMENT'S CONCLUSION THAT THE TAX EQUALIZATION FUND SHOULD NO LONGER BE USED TO MAKE REIMBURSEMENTS OF US TAXES ON LUMP SUM PENSION FUND BENEFITS WHICH UN EMPLOYEES OF US CITIZENSHIP MAY WISH TO WITHDRAW UPON RETIRING OR RESIGNING. HE MAKES THIS REQUEST URGENTLY, HOPING TO BE ABLE TO INFORM UN COMPTROLLER DEBATIN EARLY NEXT WEEK THAT, HAVING RECEIVED THE DEPARTMENT'S OPINION, HE AGREES WITH IT. END SUMMARY.

2. MISOFF CALLED ON ERIC SUY AT LATTER'S REQUEST 7 JUNE. SUY EXPLAINED THAT AS THE RESULT OF AN INQUIRY IN THE ADMINISTRATIVE COMMITTEE ON COORDINATION, DEBATIN HAS ASKED HIM FOR A LEGAL OPINION WHETHER THERE IS A SOUND LEGAL FOUNDATION FOR CONTINUING THE LONG-STANDING PRACTICE BY WHICH THE UN DRAWS ON THE TAX EQUALIZATION FUND IN ORDER TO REIMBURSE DEPARTING US-CITIZEN EMPLOYEES
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OF THE UN WHO CHOOSE TO TAKE IMMEDIATE FINANCIAL BENEFITS IN LIEU OF PENSIONS. (THIS QUESTION HAD ARISEN IN THE ACC IN THE CONTEXT OF APPLYING THE UN'S REIMBURSEMENT PRACTICE TO THE SPECIALIZED AGENCIES.) SUY SAID A DRAFT OPINION PREPARED AT HIS REQUEST BY HIS GENERAL LEGAL DEPARTMENT HAD CONCLUDED THAT THE LONG-STANDING AND UNVARYING

REIMBURSEMENT PRACTICE SHOULD BE CONTINUED. HOWEVER, ON REFLECTION ON THE MERITS, HE HAD FOUND HIMSELF UNABLE TO AGREE, NOTWITHSTANDING THE OBVIOUS HUMAN APPEAL WHICH THE AUTHORS OF THE OPINION MADE. (HE NOTED THAT FOR ONE SENIOR AMERICAN EMPLOYEE OF HIS OFFICE, REIMBURSEMENT OF BENEFITS UPON RETIREMENT WOULD BE WORTH SOME \$30,000.)

3. SUY SAID HE IS INFORMED THAT, FOR THE FIRST TIME, THE DEPARTMENT HAS COME TO THE CONCLUSION THAT REIMBURSEMENT SHOULD NOT BE CONTINUED. HE IS READY TO CONCUR IN THIS VIEW AND NEEDS AN OFFICIAL EXPRESSION OF THE US POSITION. HE ASKS THAT THIS BE HANDLED WITH GREAT SENSITIVITY AND EXPLAINS THAT, WERE HE TO INITIATE A LENGTHY OPINION IN HIS OWN OFFICE, IMMEDIATE RESIGNATIONS BY US-CITIZEN EMPLOYEES HOPING TO OBTAIN REIMBURSEMENT BEFORE THE COMPTROLLER IS NOTIFIED OF THE US-SUY POSITION CANNOT BE EXCLUDED. BUT IF HE IS GIVEN A STATEMENT OF THE US POSITION, HE COULD SIMPLY ATTACH A NOTE TO THE COMPTROLLER SAYING THAT HE AGREES, AND FROM THAT MOMENT REIMBURSEMENT WOULD CEASE.

4. SUY ADDS HE IS CONCERNED THAT PAST CASES OF
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REIMBURSEMENT -- THE CONSISTENT PRACTICE OF A GENERATION -- NOT BE OPENED UP. HE STATED HIS BELIEF THAT THE DEPARTMENT'S POSITION WOULD BE ACCOMMODATED FROM THIS TIME, AND NOT REQUIRE THE IMPOSSIBLE AND UNJUST TASK OF RECONSIDERING PAST PAYMENTS. YOUNG

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